

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
v.) CASE NO. 2:06CR122-MEF
)
KENDALL WATSON)

ORDER

The defendant [‘Watson’] filed a Motion to Suppress on 6 July 2006 (Doc. # 62). He alleges, inter alia, that, although officers contend that he consented to a search of his truck on 16 November 2005, he did not give them consent and did not realize that the form tendered to him for his signature was a Consent form. Upon consideration of the motion, it is ORDERED as follows:

1. On or before 18 July 2006, the government shall file its response to the motion. The government’s response shall include an affidavit from the officer who secured Watson’s consent that he did so, and the affidavit shall explain the circumstances which led the officer to conclude that Watson understood the nature of the document(s) that he signed.
2. On or before 18 July 2006, Watson shall file an affidavit, as a supplement to his motion, which states, as he contends, (a) that he did not consent to the search, (b) the circumstances which led Watson to conclude that the document he signed was something other than a consent to search, and (c) his intent to testify at an evidentiary hearing on the motion if one is scheduled.

The court FINDS that, based upon Watson's allegations, resolution of the motion to suppress will depend largely upon the court's findings on credibility, inasmuch as Watson disputes the officers' representations that he consented to the search. Accordingly, the court delays the setting of an evidentiary hearing, pending Watson's notice that he intends to testify. If Watson declines to testify, the only representation in evidence regarding his giving of consent will come from the officer(s). A hearing is necessary only if the court will receive competing versions of the facts from witnesses.

DONE this 13th day of July, 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE